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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ERIC KALBACHER,

Plaintiff,

-against-

BERNARD MILLER,
as Trustee of the Revocable Trust of Bernard Miller,

Defendant.

X

05-CV-2401 (ARR)(SMG)

NOT FOR
PRINT OR ELECTRONIC
PUBLICATION

ORDER

X

BERNARD MILLER,
as Trustee of the Revocable Trust of Bernard Miller,

Third-Party Plaintiff,

-against-

BAHMAN CHEHRAZI,

Third-Party Defendant.

X

ROSS, United States District Judge:

I have received the Report and Recommendation on the instant case dated August 7, 2007 from the Honorable Steven M. Gold, United States Magistrate Judge. No objections have been filed. Accordingly, the court has reviewed the Report and Recommendation for clear error on the face of the record. See Advisory Comm. Notes to Fed. R. Civ. P. 72(b); accord Edwards v. Town of Huntington, No. 05 Civ. 339 (NGG) (AKT), 2007 U.S. Dist. LEXIS 50074, at *6 (E.D.N.Y. July 11, 2007); McKoy v. Henderson, No. 05 Civ. 1535 (DAB), 2007 U.S. Dist. LEXIS 15673, at *1 (S.D.N.Y. March 5, 2007). Having reviewed the record, I find no clear

error. I hereby adopt the Report and Recommendation, in its entirety, as the opinion of the Court pursuant to 28 U.S.C. § 636(b)(1).

Therefore, this action is dismissed as settled. The Clerk of Court is directed to close the case.

SO ORDERED.

/S/

Allyne R. Ross
United States District Judge

Dated: September 4, 2007
Brooklyn, New York

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cc: Magistrate Judge Steven M. Gold

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
ERIC KALBACHER,

Plaintiff,

- against-

BERNARD MILLER,

Defendant.

**REPORT and
RECOMMENDATION
05-cv-2401 (ARR)**

During a telephone conference held on May 11, 2007, I scheduled a settlement conference for June 21, 2007. Neither party appeared on that date. Accordingly, I entered the following order:

This matter was scheduled for a settlement conference today. No party appeared. When my chambers staff inquired of plaintiff's counsel, we learned that a settlement agreement was reached on or about May 21, 2007, that payment consummating the settlement is expected on or about July 16, 2007, and that a stipulation of discontinuance will be filed on or about that date. Accordingly, plaintiff's counsel is hereby ordered to file via ECF, by July 16, 2007, a stipulation of discontinuance, or a written status report explaining why such a stipulation has not been filed.

See Order dated June 21, 2007.

The required status report has not been submitted, and counsel has not otherwise communicated with the court. Accordingly, I respectfully recommend that this action be dismissed as settled, without prejudice to move to reopen the case by August 21, 2007, if the settlement has not been consummated by then.

Any objections to this report and recommendation must be filed within ten days of receipt and in any event no later than August 21, 2007. Failure to file timely objections may waive the right to appeal the District Court's order. See 28 U.S.C. §636(b) (1); Fed.R.Civ.P. 6(a), 6(e), 72; Small v. Secretary of Health and Human Services, 892 F.2d 14, 15 (2d Cir. 1989).

SO ORDERED.

_____/s/_____
STEVEN M. GOLD, U.S. Magistrate Judge

**Brooklyn, New York
August 7, 2007**

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